

Remarks

Responsive to the office action mailed November 10, 2005, the claims have been renumbered and claims 38 - 51 and 53 have been amended.

In the office action mailed, claims 37 - 40, 42, 43, 46 and 50-53 were rejected under 35 USC §103(a) over U.S. Patent No. 1,435,311 (to Knight); claims 44 and 45 were rejected under §103(a) over Knight in view of U.S. Patent No. 4,929,478 (to Conaghan et al.); and claim 39 was rejected under §103(a) over Knight in view of U.S. Patent No. 4,181,157 (to DeCamp).

Each of independent claims 37, 50 and 52 was, therefore, rejected under §103(a) over Knight. The Knight reference discloses a “tubular jacket” that may be applied to a telephone cord or other electrical wiring, or to a collapsed discharge pipe of a syringe. See the Declaration of Richard F. Grossman filed herewith, as well as the Knight reference at page 1, line 105-page 2, line 10.

The office action states that the Knight reference teaches (with reference to Figure 1 thereof) that the jacket may have an overlap that is substantially greater than that shown in Figure 3 yet still provide an opening to accommodate a member. Applicant agrees that the Knight reference appears to show in Figure 1 a device that includes an overlap. Applicant, however, disagrees that the Knight reference teaches or discloses how such a device might be formed. In particular, if a tubular rubber or rubber compound were to be slit longitudinally as disclosed in the Knight reference, it would not provide an “inherent coiling or rolling action” as stated in the Knight reference (Grossman Declaration, paragraph 4).

It is also not at all clear how one might produce a device that provides such an inherent coiling or rolling action using the teachings of the Knight reference (Grossman Declaration, paragraph 10). When a tubular rubber or rubber compound material is split as disclosed in the

Knight reference, it would largely maintain its shape, even with the longitudinal slit (Grossman Declaration, paragraph 7). This is due to the fact that no forces have been introduced to the device to cause the material to coil (Grossman Declaration, paragraph 7).

A device formed in accordance with the teachings of Knight, therefore, would not have a plurality of overlapping wraps around an elongated element within the device such that there will exist sufficient overlap to completely envelope and protect the elongated element within the device from abrasion damage when a force greater than the constricting force caused by sliding actions opens an edge of an outer overlapping wrap (Grossman Declaration, paragraph 8).

A tubular rubber or rubber compound material that is split as disclosed in the Knight reference, therefore, will not have a memory that produces a small constricting force that provides a snug fit around an elongated element of any diameter along the full length of the device with sufficient gripping force as to inhibit slippage along the length of the elongated element when no external force is applied to the protector, yet resists being unwrapped when slid sideways along a rough, hard surface in a direction transverse to the length of the device (Grossman Declaration, paragraph 9).

Moreover, the Knight reference issued in 1922. Applicant further submits that the need has existed for devices of the invention for a considerable period of time. Prior to the commercial introduction of devices in accordance with embodiments of the invention, ropes were either unprotected at stress or abrasion points, or were protected by complex enclosing protectors that fastened with, for example, VELCRO or clips, or were simply protected by placing an article under the rope at the abrasion point (See the Declaration of Mark O'Donnell filed January 27, 2005, paragraphs 6 and 7). A copy of the O'Donnell Declaration filed January 27, 2005 is enclosed.

Additionally, the commercial introduction of products in accordance with embodiments

of the invention has been met with substantial commercial success (O'Donnell Declaration, paragraph 10), and this commercial success is due to the product being easily applied to and positioned on a rope (without requiring a fixed attachment), yet provide sufficient protection through the use of wrapping the protector around the rope with sufficient overlap to provide an underlying abrasion resistant surface under the exposed abrasion resistant outer surface (O'Donnell Declaration, paragraph 11).

Independent claim 37 requires, in part, a flexible single layer of abrasion resistant material formed to have memory in a spiral shape. The protector memory produces a small constricting force that provides a snug fit around the rope or webbing along the full length of the protector with sufficient gripping force as to inhibit slippage along the length of the rope or webbing when no external force is applied to the protector. The Knight reference does not disclose, teach or suggest this feature. Claim 37 also requires, in part, that the device resists being unwrapped when slid sideways along a rough, hard surface in a direction transverse to the length of the spiral; said protector, in use, having a plurality of overlapping wraps around said rope and webbing such that when expanded over the rope or webbing there will still exist sufficient overlap of the spiral to completely envelope and protect the rope or webbing from abrasion damage when a force greater than the constricting force caused by sliding actions opens an edge of an outer overlapping wrap

These features of claim 37 are not disclosed, taught or suggested in the Knight reference, satisfy a long felt need, and are in large part responsible for the commercial success of products of the invention. Applicant submits, therefore, that claim 37 is in condition for allowance. Each of claims 38 - 49 depends from claim 37 and further limits the subject matter of claim 37. Each of claims 37 - 49, therefore, is submitted to be in condition for allowance.

Independent claim 50 requires, in part, a flexible single layer of abrasion resistant

material that is formed to have memory in a spiral shape. The protector memory produces a small constricting force that provides a snug fit around the rope or webbing along the full length of the protector with sufficient gripping force as to inhibit slippage along the length of the rope or webbing when no external force is applied to the protector yet permit slippage along a length of the rope or webbing when a sufficient external force is applied to the protector. The protector memory also resists being unwrapped when the protector is slid sideways along a rough, hard surface in a direction transverse to the length of the spiral. During use, the protector has a plurality of overlapping wraps around the rope or webbing such that when expanded over the rope or webbing there will still exist sufficient overlap of the spiral to completely envelope and protect the rope or webbing from abrasion damage when a force greater than the constricting force caused by sliding actions opens an edge of an outer overlapping wrap.

These features of claim 50 are also not disclosed, taught or suggested in the Knight reference, satisfy a long felt need, and are in large part responsible for the commercial success of products of the invention. Applicant submits, therefore, that claim 50 is in condition for allowance. Claim 51 depends from claim 50 and further limits the subject matter of claim 50. Each of claims 50 and 51, therefore, is submitted to be in condition for allowance.

Independent method claim 52 requires, in part, the step of providing a flexible single layer of abrasion resistant material formed to have memory in a spiral shape and having a protector length that is substantially the same as the protected length of the rope or webbing. Method claim 52 further requires the step of constricting the protector around the rope or webbing with a small constricting force applied by the spiral shape to achieve a snug fit around the rope or webbing along the full length of the protector with sufficient gripping force as to inhibit slippage along the length of the rope or webbing when no external force is applied to the protector. Claim 52 also requires resisting the protector from being unwrapped when slid

sideways along a rough, hard surface in a direction transverse to the length of the spiral by the constricting force, and permitting an inner spiral portion of the protector to be exposed when a force greater than the constricting force is applied in the direction transverse to the length of the spiral due to the protector including a plurality of overlapping wraps around the rope or webbing such that when expanded over the rope or webbing there will still exist sufficient overlap of the spiral to completely envelope and protect the rope or webbing from abrasion damage when the force greater than the constricting force causes an edge of an outer overlapping wrap to be opened.

These features of claim 52 are also not disclosed, taught or suggested in the Knight reference, satisfy a long felt need, and are in large part responsible for the commercial success of products of the invention. Applicant submits, therefore, that claim 52 is in condition for allowance. Claim 53 depends from claim 52 and further limits the subject matter of claim 52. Each of claims 52 and 53, therefore, is submitted to be in condition for allowance.

Each of claims 36 - 53 is submitted to be in condition for allowance. Favorable action consistent with the above is respectfully requested.

Respectfully submitted,



William E. Hilton
Registration No. 35,192
Gauthier & Connors, LLP
225 Franklin Street, Suite 2300
Boston, Massachusetts 02110
Telephone: (617) 426-9180
Extension :111